

## PLANNING COMMISSION MINUTES

JUNE 1, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-05-06

Change in zoning from R-4 Single-Family Residential to C-2 Commercial and M-2 Industrial; and, a change in the form district from Neighborhood to Suburban Marketplace Corridor on property located at 4401 and 4403 Bardstown Road (Tax Block 44, Lot 396 and 397), containing 6.818 acres and being in Louisville Metro.

Owners: Eleanor F. Lewis  
7912 Cedar Creek Road  
Louisville, Kentucky 40291

Roger L Queen, III  
4605 Old Henry Road  
Louisville, Kentucky 40299

Applicant: Hook Family Holdings, LLC  
4144 Bardstown Road  
Louisville, Kentucky 40218

Attorney: L. Jude Clark, Jr.  
400 W. Market Street, 32<sup>nd</sup> Floor  
Louisville, Kentucky 40202

Existing Uses: Vacant

Proposed Use: Truck dealership

Council District: 22—Robin Engel  
**Staff Case Manager: Stephen Lutz, AICP**

Notice of this public hearing appeared in The Courier Journal on May 11, 2006, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

## **PLANNING COMMISSION MINUTES**

**JUNE 1, 2006**

### **NEW BUSINESS:**

#### **Public Hearing and Consideration of Cases**

#### **DOCKET NO. 9-05-06**

#### **The following spoke in favor of this request:**

L. Jude Clark, Jr., Attorney, 400 W. Market Street, Louisville, Kentucky 40202; who submitted brochures into the record.

Bob Hook, III, 4144 Bardstown Road, Louisville, Kentucky 40218.

#### **The following spoke in opposition:**

No one.

#### **Interested Parties:**

Alice McChristion, 235 Carey Avenue, Louisville, Kentucky 40218-3213

### **SUMMARY OF TESTIMONY OF PROPONENTS:**

L. Jude Clark, Jr., attorney for the Applicant, presented the Applicant's proposal at the public hearing held on June 1, 2006. Mr. Clark testified that the proposed truck sales and display facility would include a one story 5,000 square foot office/showroom facility with the remainder of the site to be used for product display, parking, storm water detention and landscaping. The proposed dealership would sell the Chevy Silverado and Chevy Commercial line of pickup trucks and cargo vans. Of 26 available models, six have a maximum of payload capacity in excess of two tons, thereby necessitating M-2 zoning for a portion of the site. The Applicant's attorney testified that approximately 15% of sales will be attributable to trucks with a two ton payload capacity. The dealership will also sell the Feather-light line of trailers used to pull motorcycles, horses, antique cars and other equipment.

The applicant's attorney showed slides of the types of vehicles to be sold at the truck sales and display facility.

The applicant's attorney testified that the subject property is located in a very small section of Bardstown Road that is part of Neighborhood Form District. Bardstown Road, from its beginning at Baxter Avenue to outside the Snyder Freeway is nearly all in the Traditional Marketplace Corridor Form District or the Suburban Marketplace

## PLANNING COMMISSION MINUTES

JUNE 1, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-05-06

Corridor Form District. The Suburban Marketplace Corridor Form District extends up to the subject property appropriately as west boundary and then resumes a few hundred feet past the subject property. The applicant's counsel showed the LOJIC map indicating the location of the Suburban Marketplace Corridor in relation to the subject property.

The applicant's attorney testified that the existing form district classification for the subject property is not appropriate because Bardstown Road is characterized by linear commercial development. Bardstown Road in the immediate vicinity of the subject property is a medium to high density commercial district with car dealerships, the Eastland Mall Shopping Center, the Chrysler Office Building, Aldi's grocery and other free standing commercial uses. To the west of the subject property, Bardstown Road is solidly developed as medium to high density commercial corridor all the way to Baxter Avenue, approximately 10 miles further in town. East of the subject property and the two adjacent parcels to the east, Bardstown Road continues with medium to high density linear commercial development all the way to the Gene Snyder Freeway. Applicant asserts that the subject property probably should have been designated as part of the Suburban Marketplace Corridor Form District when original form districts were established. The change of the subject property from Neighborhood Form District to Suburban Marketplace Corridor Form District will not be an expansion of the corridor. The change will conform the form district designation to the form district designation that exists in the Bardstown Road corridor for miles on either side of the subject property.

The applicant's attorney showed a slide of a rendering of the Development Plan. The Applicant's attorney testified that the new development will be compatible in terms of scale and site design with nearby existing commercial development along Bardstown Road. Impacts on the neighborhood to the north of the property will be mitigated by the 200 foot transition zone between the adjacent form district and the proposed Suburban Marketplace Corridor Form District. Impacts of the development on the adjacent neighborhood will be further mitigated by preservation of the dense line of existing mature trees along the northern and eastern boundary of the property and by maintenance of a 30 foot landscaping buffer. The Applicant will construct a six foot wooden fence adjacent to the neighborhood to the north of the property. The Applicant will comply with the lighting provisions of the Land Development Code that require that lights be directed down and away from adjacent residences. The Commission requested, and the Applicant, Bob Hook III, agreed, that lighting at the

## **PLANNING COMMISSION MINUTES**

**JUNE 1, 2006**

### **NEW BUSINESS:**

#### **Public Hearing and Consideration of Cases**

##### **DOCKET NO. 9-05-06**

rear of the property will be turned off at the close of business each evening. This will be incorporated as an additional binding element.

#### **SUMMARY OF TESTIMONY OF OPPONENTS:**

No one spoke in opposition.

#### **SUMMARY OF TESTIMONY OF INTERESTED PARTIES:**

Alic McChristion from the adjacent Buechel Park neighborhood testified as "other", indicating she was neither opposed or in favor of the proposed development, but had questions regarding how the impact of the development would be mitigated with respect to the neighborhood. She indicated that the tract proposed for development had been an open field for several years with trees along the edge. The neighborhood much preferred looking at an open field to a new development. She wondered how the impacts on the neighborhood would be addressed.

#### **REBUTTAL:**

Mr. Clark addressed the concerns raised by the neighborhood representative by reiterating the nature of the landscape buffer, the fencing, the existing tree lines, limitations on hours of operation and avoidance of light pollution from the development.

**An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the cd of the June 1, 2006 public hearing proceedings.**

#### **CHANGE IN ZONING:**

In a business session subsequent to the public hearing on this request, the Commission took the following action.

On a motion by Commissioner Wells-Hatfield, the following resolution was unanimously adopted:

## PLANNING COMMISSION MINUTES

JUNE 1, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-05-06

**WHEREAS**, The Commission finds that the proposed new development will be connected with commercial development to the west through a cross easement, and an easement has been reserved for connectivity to the east should the property to the east develop in the future. Therefore, the proposal meets the comprehensive plan requirements for the connectivity of adjacent commercial development; and

**WHEREAS**, The Commission finds that the proposal complies with the mobility and transportation guidelines in Cornerstone 2020, including 3.6, 7.1, 7.2, 7.3, 7.4, 7.6, 7.9, 9.1 and 9.2. The plan provides cross over easements with adjacent commercial properties or properties with potential for commercial development. The proposal provides sidewalks along Bardstown Road. A Traffic Impact Statement was prepared and submitted by Jordan Jones and Goulding, indicating the development would create fewer than 200 trips during peak periods; and

**WHEREAS**, The Commission finds that the proposal has received preliminary approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Department of Public Works, and the Metropolitan Sewer District; and

**WHEREAS**, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville/Jefferson County Metro Government that the change in zoning **from R-4 Single Family Residential to C-2 Commercial and M-2 Industrial** on property described in the attached legal description be **APPROVED**.

The vote was as follows:

**YES:** Commissioners Hamilton, Abstain, Jones, Ernst, Blake, Carlson, Queenan, Wells-Hatfield and Howard.

**NO:** No one.

**NOT PRESENT FOR THIS CASE:** Commissioners Adams.

**ABSTAINING:** No one.

## PLANNING COMMISSION MINUTES

JUNE 1, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-05-06

#### DETAILED DISTRICT DEVELOPMENT PLAN:

On a motion by Commissioner Wells-Hatfield, the following resolution was unanimously adopted:

**RESOLVED**, That the Louisville Metro Planning Commission does hereby **APPROVE** the district development plan **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code . Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The square footage shall be limited to 5,040 square feet.
3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use, or site disturbance permit is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior

## PLANNING COMMISSION MINUTES

JUNE 1, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-05-06

- to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 16, 2006 Planning Commission meeting.
10. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall

## **PLANNING COMMISSION MINUTES**

**JUNE 1, 2006**

### **NEW BUSINESS:**

#### **Public Hearing and Consideration of Cases**

#### **DOCKET NO. 9-05-06**

be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

12. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
13. Hours of operations shall be 9:00 a.m. through about 7:00 p.m. or 8:00 p.m. Monday through Saturday. The business shall be closed on Sundays
14. The lighting at the rear of the property will be turned off at the close of business each evening or at 10:00 PM, whichever is earlier.
15. The M-2 portion of the site shall be restricted to sales of large trucks (over two-ton hauling capacity). No other M-2 uses shall be permitted unless a public hearing is held by the Planning Commission on the land use change.

All binding elements and/or conditions of approval stated in this report are accepted in total without exception by the entity requesting approval of this (these) development item(s).

#### **The vote was as follows:**

**YES: Commissioners Hamilton, Abstain, Jones, Ernst, Blake, Carlson, Queenan, Wells-Hatfield and Howard.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Adams.**

**ABSTAINING: No one.**

#### **FORM DISTRICT CHANGE FROM NEIGHBORHOOD TO SUBURBAN MARKETPLACE CORRIDOR:**

On a motion by Commissioner Wells-Hatfield, the following resolution was unanimously adopted:



## PLANNING COMMISSION MINUTES

JUNE 1, 2006

### NEW BUSINESS:

#### Public Hearing and Consideration of Cases

#### DOCKET NO. 9-05-06

**WHEREAS**, The Commission finds that based upon testimony and evidence submitted during the public hearing, Land Development and Transportation Committee review, the staff report and the file of the case the proposed development is consistent with Goal F2 and Objectives F2.1, F2.2., Goal F3 and Goal F4 and the Objectives adopted pursuant to Goal F3 and F4 of the Comprehensive Plan for Metro Louisville, all of which relate to the Suburban Marketplace Corridor District. The proposed car dealership is compatible with the adjacent properties on Bardstown Road. Bardstown Road is characterized by linear commercial development from its beginning at Baxter Avenue to the Gene Snyder Freeway. Bardstown Road is nearly all in the traditional marketplace corridor form district or the suburban marketplace corridor form district. The area in the immediate vicinity of the subject property is medium to high density commercial district. The linear pattern of commercial development and the suburban marketplace corridor form district designation in the area of the subject property is interrupted by only the subject property and two other tracts immediately adjacent to the subject property. The subject property is a small island of neighborhood form district located between the suburban marketplace corridor form district that extends for miles on both the east and west sides of the subject parcel and the two parcels adjacent to the subject parcel. Therefore, the change of the subject property from Neighborhood Form District to Suburban Marketplace Corridor Form District will not be an expansion of the Suburban Marketplace Corridor, but will conform the small island between two long sections of Suburban Marketplace Corridor to the form district designation that matches the development pattern; and

**WHEREAS**, The Commission finds that the proposed site has 807 feet of frontage on a 6 lane major arterial in an established commercial corridor. The existing R-4 Residential Zone and Neighborhood Form District are inappropriate for this type of location. The comprehensive plan would indicate that the subject property is appropriate for Suburban Marketplace Corridor. It is located on a major roadway with a pattern of development that is distinguished by a mixture of medium to high intensity commercial uses; and

**WHEREAS**, The Commission finds that the plan conforms to the compatibility and Suburban Marketplace Corridor guidelines at 2.4, 2.5, 2.7, 3.1, 3.2, 3.21, 3.22, 3.24 and 9.1 in Cornerstone 2020; and

**WHEREAS**, The Commission finds that the applicant's proposed change in Form District from Neighborhood Form District to Suburban Marketplace Corridor is in

## **PLANNING COMMISSION MINUTES**

**JUNE 1, 2006**

### **NEW BUSINESS:**

#### **Public Hearing and Consideration of Cases**

##### **DOCKET NO. 9-05-06**

conformance with Cornerstone 2020, the Comprehensive Plan for Metro Louisville;  
and

**WHEREAS**, The Commission finds that the new development will be compatible in terms of scale and site design with nearby existing development along Bardstown Road. Impacts on the neighborhood to the north of the subject property will be mitigated by the 200 foot transition zone between the Neighborhood Form District and the proposed Suburban Marketplace Form District. Impacts of the development on the adjacent neighborhood will be further mitigated by the preservation of the existing mature trees along the northern and eastern boundary of the property, and by maintenance of a 30 foot landscaping buffer. The proposed development must conform to the lighting requirements of the Land Development Code, which will further mitigate the impacts of the development on adjacent neighbors to the north;  
and

**The vote was as follows:**

**YES:** Commissioners Hamilton, Abstain, Jones, Ernst, Blake, Carlson, Queenan, Wells-Hatfield and Howard.

**NO:** No one.

**NOT PRESENT FOR THIS CASE:** Commissioners Adams.

**ABSTAINING:** No one.

**ZONING LINE DESCRIPTION**  
**For LOT 1 M2 SECTION**  
4401 BARDSTOWN ROAD  
OWNER-QUEEN FAMILY TRUST  
DEED BOOK 7354, PAGE 558

Beginning at a found iron pipe at the north R/W of Bardstown Road, also the southeast corner of Steven and Sharon Carter as described in Deed Book 5785, Page 993 and recorded in the office of the Jefferson County Court Clerk; Thence with Carter's line N **32°38'22"** E **311.68'**; thence S **57°18'21"** E **223.50'**; thence S **32°41'39"** W **142.00'**; thence S **57°18'21"** E **30.00'**; thence S **32°41'39"** W **168.89'** to the R/W of Bardstown Road; thence with the R/W N **57°28'57"** W **253.20'** to the beginning.

*Rec'd on  
6-19-06  
via e-mail*

**ZONING LINE DESCRIPTION**  
**For LOT 1 C2 SECTION**  
**4401 BARDSTOWN ROAD**  
**OWNER-QUEEN FAMILY TRUST**  
**DEED BOOK 7354, PAGE 558**

Beginning at a found iron pipe at the north R/W of Bardstown Road, also the southeast corner of Steven and Sharon Carter as described in Deed Book 5785, Page 993 and recorded in the office of the Jefferson County Court Clerk; Thence with Carter's line **N 32°38'22" E 311.68'**; thence **N 32°38'22" E 112.19'** to a found pin and cap on the line of Buechel Terrace Section 2 as recorded in Plat Book 10, page 92; thence with the line of the subdivision **S 48°26'13" E 407.77'** (**deeds says S 48°25'E 407.62'**) to a point 0.12' south of a 1" rod, found, also a corner of Eleanor Fegenbush Lewis of record in Deed Book 4726, Page 75; thence with Lewis's line **S 32°38'49" W 359.85'** (**deed says S 32°39'W 359.96'**) to a found pipe at the R/W of Bardstown Road; thence with said R/W **N 57°18'21" W 21.38'** to a R/W marker with a pin and cap 2852 at its base; thence **N 57°28'57" W 124.12'**; thence **N 32°41'39" E 168.89'**; thence **N 57°18'21" W 30.00'**; thence **N 32°41'39" E 142.00'**; thence **N 57°18'21" W 227.58'**; thence to the Carter's line **S 32°38'22" W 311.68'** to the beginning.

**ZONING LINE DESCRIPTION**  
**For LOT 2 C2 SECTION**  
4403 BARDSTOWN ROAD  
OWNER-ELEANOR FEGENBUSH LEWIS  
DEED BOOK 4726, PAGE 75

Beginning at a found iron pipe at the R/W of Bardstown Road, a corner to "The Queen Family Trust" of record in Deed Book 7354, page 558 in the office of the Jefferson County Court Clerk; thence with the line of same **N 32°38'49" E 328.96'**; **thence N 32°38'49" E 30.87'** to a point on the line of Buechel Terrace Section 2 of record in Plat Book 10, Page 92, said point being 0.12' south of a found 1" diameter rod; thence with the line of the subdivision **S 48°26'13" E 431.23'** (deed says **S 48°25'E 431.23'**) to a found pinch pipe, the corner of James W. Fegenbush Sr. Revocable Trust Agreement of record in Deed Book 7397, Page 920; thence with the line of same **S 32°38'02" W 293.35'** (deed says **S 32°39' W 293.43'**) to a found pipe at the R/W of Bardstown Road, 12.75' northwest of a R/W marker; thence with the R/W **N 57°18'21" W 195.37'**; thence **N 32°41'39" E 74.50'**; **thence N 57°18'21" W 30.00'**; **thence N 32°36'46" E 223.15'**; thence **N 48°26'13" W 203.09'** to "The Queen Family Trust" line; thence **S 32°38'49" W 328.96'** to the beginning.

**ZONING LINE DESCRIPTION**  
**For LOT 2 M2 SECTION**  
**4403 BARDSTOWN ROAD**  
**OWNER-ELEANOR FEGENBUSH LEWIS**  
**DEED BOOK 4726, PAGE 75**

Beginning at a found iron pipe at the R/W of Bardstown Road, a corner to "The Queen Family Trust" of record in Deed Book 7354, page 558 in the office of the Jefferson County Court Clerk; thence with the line of same **N 32°38'49" E 328.96'**; thence **S 48°26'13" E 203.09'**; thence **S 32°36'46"W 223.15'**; thence **S 57°18'21"E 30.00'**; thence **S 32°41'39"W 74.50'**; to the R/W of Bardstown Road thence with the R/W **N 57°18'21" W 230.71'** to the beginning.

## PLANNING COMMISSION MINUTES

APRIL 20, 2006

### PUBLIC HEARING

DOCKET NO. 9-05-06PW

**NOTE: Commissioner Adams returned at 3:12 p.m. and heard and voted on the remaining cases.**

Change in zoning from R-4 Single-Family Residential to C-2 Commercial and a change in the form district from Neighborhood to Suburban Marketplace Corridor on property located at 4401 and 4403 Bardstown Road (Tax Block 44, Lot 396 and 397), containing 6.82 acres and being in Louisville Metro.

Owners: Eleanor F. Lewis  
7912 Cedar Creek Road  
Louisville, KY 40291

Rogers L. Queen III, Trustee  
The Queen Family Trust  
4605 Old Heady Road  
Louisville, KY 40299

Applicant: Robert L. Hook, Jr. – Manager  
Hook Family Holdings, LLC  
4144 Bardstown Road  
Louisville, KY 40218

Attorney: Jude Clark  
Frost Brown Todd  
400 West Market Street  
Louisville, KY 40202

Engineer/Designer: Thomas J. Lewis, III  
4501 Bardstown Road  
Louisville, KY 40218

Existing Uses: Vacant  
Proposed Use: Truck dealership  
Council District: 22—Robin Engel  
**Staff Case Manager: Stephen Lutz, AICP**

Notice of this public hearing appeared in The Courier Journal on March 30, 2006, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

## **PLANNING COMMISSION MINUTES**

**APRIL 20, 2006**

### **PUBLIC HEARING**

#### **DOCKET NO. 9-05-06PW**

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

#### **The following spoke in favor of this request:**

Jude Clark, Frost Brown Todd Attorneys, 400 West Market Street, Louisville, KY 40202

Ray Forest [architect], 961 Baxter Avenue, Louisville, KY

Paul Slone, 4219 Harrison Avenue, Cincinnati, OH 45211

Robert L. Hook Jr., 4001 Flint Road, Louisville, KY 40207

#### **The following spoke in opposition:**

No one spoke.

#### **The following spoke neither for nor against:**

No one spoke.

#### **AGENCY TESTIMONY:**

Stephen Lutz presented the case and showed a Power Point presentation. He said that a portion of this site will be used to sell trucks over two tons in size. Trucks over two tons in size require an M-2 zoning classification, instead of a C-2; therefore Lot 1 (which has frontage on Bardstown Road, and is farthest away from the residential areas) should be classified as M-2, and Lot 2 should be classified as C-2. He explained a little more about how the business will be conducted on the lot. Mr. Lutz said the applicant had given their operating hours as "...between 9:00 a.m. and 7:00 p.m. or 8:00 p.m. Monday through Saturday, and being closed on Sunday." He said if the applicant has any changes to that, they should be stated now since Mr. Lutz has included this statement as a binding element. In response to a question from Commissioner Wells-Hatfield, Mr. Lutz said the applicant should address how these trucks are going to be loaded and unloaded on the site.

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Following the testimony of the proponents for this case, at the Commissioners' request, Dawn Warrick, Assistant Director of Planning and Design Services,



## **PLANNING COMMISSION MINUTES**

**APRIL 20, 2006**

### **PUBLIC HEARING**

#### **DOCKET NO. 9-05-06PW**

explained why this case needed to be continued to a later date. She stated that there was a departmental error with the notification and processing of this application. She said there was a slight conflict with the "use" listings for the particular zoning classifications of M-2 and C-2. She said the department has set a goal to look at all of the use listings in the Code. She said the department has adopted a "Planned Development District" option, which is something that can be applicable in all of the Form Districts and allows for a wider variety of uses and more flexibility.

#### **SUMMARY OF TESTIMONY OF PROPONENTS:**

Jude Clark, the applicant's representative, asked that this case be continued to June 1, 2006 in order to give the applicant time for a new APO notice, legal ad, etc. with the new zoning classification request. He said there had been several recommendations from staff for different rezoning classifications. This caused some advertising and posting errors, necessitating a new hearing with corrected APO notices, legal ads and posting. He mentioned that the applicant's competition sells trucks of the two-ton classification from various C-2 sites all over the County. He said there is no change in the development plan, the use, or the binding elements. The only change is the zoning classification.

Mr. Clark stated that the applicant proposes to establish a medium- and light-duty truck sales and display facility. The dealership would be selling the Chevy Silverado and commercial pickup trucks. He showed photos of the types of trucks that would be sold. Regarding the requested Form District change, Mr. Clark showed a map of the surrounding area and explained that this property is "an island" of Neighborhood Form District in a long strip that includes mostly Traditional Marketplace Corridor or Suburban Marketplace Corridor along a major arterial (Bardstown Road.)

Mr. Clark discussed the requested zoning change, and explained why the applicant feels it will be compatible with the surrounding area. He described what the applicant will do to meet the Code requirements, and that they do have on the plan a crossover access easement between the adjacent parcels. However, the doctor's office is not willing to grant a crossover access easement. Mr. Clark said a transportation study was done that indicated that trip generation would be under 200 at peak hours, thus negating the need for a full traffic impact study.

## **PLANNING COMMISSION MINUTES**

**APRIL 20, 2006**

### **PUBLIC HEARING**

#### **DOCKET NO. 9-05-06PW**

In response to a question from Commissioner Carlson, Mr. Clark explained about the types of trucks they sell and how most customers do not want any modifications. Those who do can order those items separately (lockboxes, flatbeds, etc.) and they will be shipped to the site.

Commissioner Adams asked about the crossover access easement back to the west. He said all applicants are asked to create needed easements as part of the development, realizing that it would never be utilized unless the adjoining neighbor also agreed to an access easement at a future time. Mr. Clark said it has been noted on the plan that there is an access easement there. He agreed to grant an easement in favor of the adjacent property, ON CONDITION of a grant of a reciprocal easement from the adjacent property owner.

Robert L. Hook Jr., the applicant, addressed a question from Commissioner Wells-Hatfield about unloading vehicles. He said those vehicles will actually be delivered to their old address (4141 Bardstown Road) for check-in and inspection. He reiterated that this site is for sales and display only. Mr. Hook stated that no repair or modification work will be done on this site – all of that will be done at their other facility. He said there is room on the lot for a semi truck to pull in and unload vehicles if needed; however, they are not planning on doing that here.

Commissioner Hamilton asked Mr. Hook if he had looked for another location for his business within an existing Suburban Marketplace Corridor, rather than trying to change the existing Form District on this property. Mr. Hook said yes, they had.

Commissioner Wells-Hatfield asked Mr. Clark about the screening abutting the residential area.

Paul Stone was called but declined to speak.

Ray Forest was called but declined to speak.

#### **SUMMARY OF TESTIMONY OF OPPONENTS:**

No one spoke.

#### **SUMMARY OF TESTIMONY OF THOSE NEITHER FOR NOR AGAINST:**

## **PLANNING COMMISSION MINUTES**

**APRIL 20, 2006**

### **PUBLIC HEARING**

**DOCKET NO. 9-05-06PW**

No one spoke.

### **REBUTTAL:**

No rebuttal was needed, since there was no opposition.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 20, 2006 proceedings.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

On a motion by Commissioner Hamilton, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the June 1, 2006 public hearing in order to correct the error of notification.

**The vote was as follows:**

**YES:** Commissioners Ernst, Carlson, Hamilton, Blake, Wells-Hatfield, Queenan, Jones, Abstain, and Adams.

**NO:** No one.

**NOT PRESENT:** Commissioner Howard.

**ABSTAINING:** No one.



**Staff Report**  
April 20, 2006



<b>Case:</b>	9-5-06VW
<b>Project Name:</b>	Bob Hook Truck Dealership
<b>Location:</b>	4401 and 4403 Bardstown Road
<b>Owner Applicant:</b>	Eleanor F. Lewis and Roger L Queen, III Hook Family Holdings, LLC.
<b>Engineer:</b>	Classickle, Inc.
<b>Area:</b>	6.82 acres
<b>Form District:</b>	Neighborhood to Suburban Marketplace Corridor
<b>Zoning District:</b>	R-4 to C-2
<b>Existing Use:</b>	Vacant
<b>Proposed Use:</b>	Truck dealership
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	22—Robin Engel
<b>Case Manager:</b>	Stephen A. Lutz, AICP

**Request** Change in zoning from R-4 Single-Family Residential to C-2 Commercial and a change in the form district from Neighborhood to Suburban Marketplace Corridor on property located at 4401 and 4403 Bardstown Road (Tax Block 44, Lot 396 and 397), containing 6.82 acres and being in Louisville Metro.

**UPDATED FOR JUNE 1<sup>ST</sup> PUBLIC HEARING.**

The applicant has altered the plan to rezone a portion of the site to M-2, as per the request of staff, for sale of large (over a two-ton hauling capacity) vehicles. Lot 1 is proposed to be rezoned to M-2. This lot is 3.623 acres in size and is located in the front of the parcel. No portion of this lot abuts any portion of the adjacent R-4 single-family residential properties. Lot 2 is proposed to be zoned C-2 commercial and 3.194 acres in size.

**Staff Recommendation** Staff recommends **APPROVAL** of this case

## **Case Summary/Background**

### ***Summary***

The applicant proposes to construct a truck/trailer sales facility on the site. There will be a 5,040 SF sales/display building and sales/display room for 488 trucks and trailers. Approximately 80-85% of the trucks will be ½ to 1 ton pickup/work trucks. The remainder will be trucks which have a hauling capacity of greater than two-tons. The site is currently vacant.

### ***Site Context***

The site fronts on Bardstown Road. The site is flat and has no topographic constraints. To the north is a single-family residential subdivision on R-4 property. To the west is office/commercial property zoned OR-1 and C-1 and which is also in the SMC form district. To the east is single-family residential property zoned R-4. To the south is single-family residential and multi-family residential, located in the R-4 and R-7 districts. Below is a zoning map and aerial map of the site.

Here is the zoning map for the site (Site is highlighted with a star):



***Land Use / Zoning District / Form District***

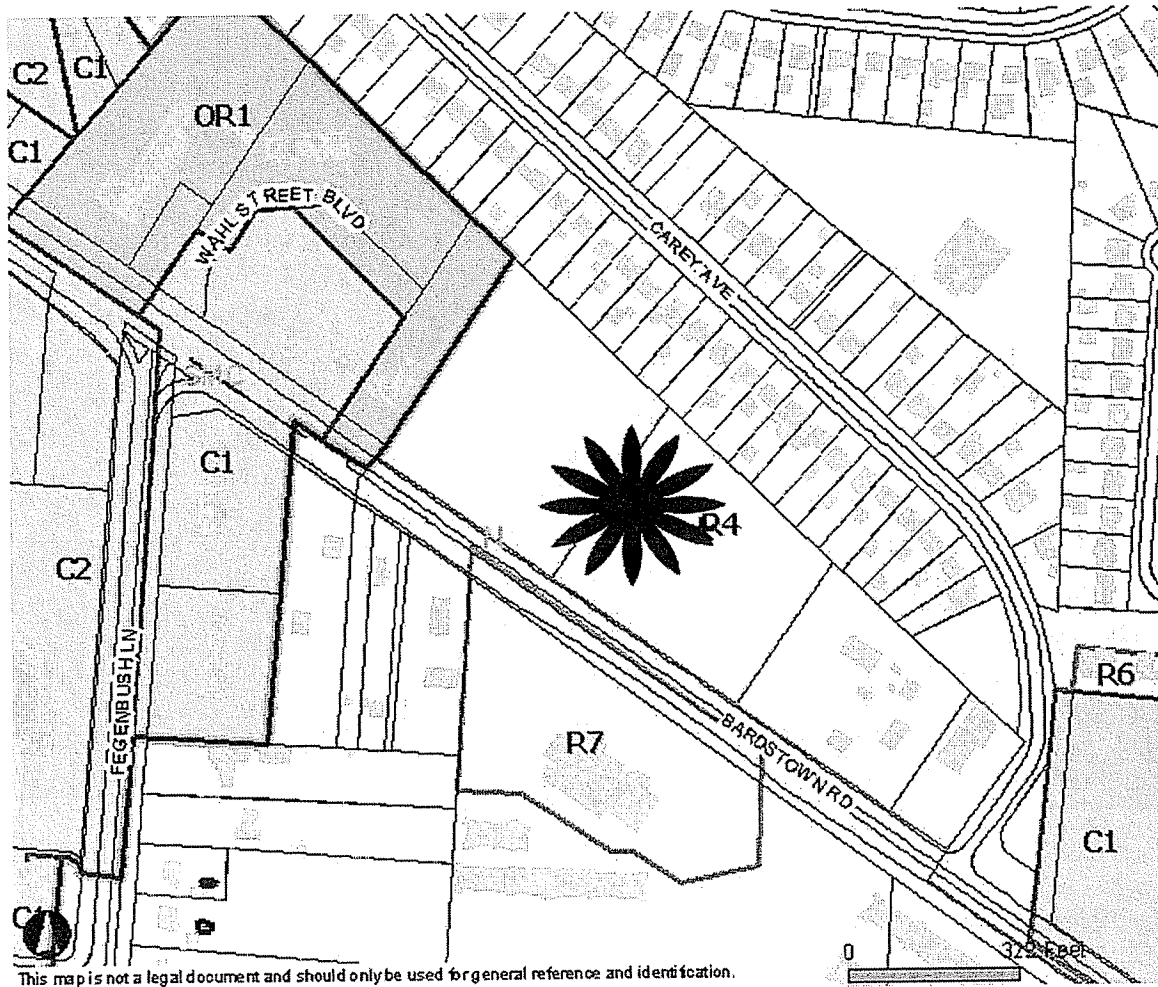
	Land Use	Zoning	Form District
<b>Subject</b>			
<b>Existing</b>	Vacant and single-family residential	R-4	N
<b>Proposed</b>	Truck sales	C-2	SMC
<b>Surrounding</b>			
<b>North</b>	Single-family residential	R-4	N
<b>South</b>	Single-family residential, Multi-family residential	R-4, R-7	N
<b>East</b>	Single-family residential	R-4	N
<b>West</b>	Office (rezoned Dkt # 9-90-88)	OR-1	SMC

***Background***

There have been no previous zoning actions on this site.

**Project History**

Project History	Date	Issues addressed / discussion / changes to proposal
Project submittal	1/19/06	
Site Inspection Committee	2/03/06	



Here is an aerial of the site:



LD&T review	2/23/06	
Public hearing	4/20/06	

Note: The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The board is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

### **Issues per LD&T Review from February 23, 2006**

#### **Summary:**

- 1) The applicant will be selling trucks that are much larger than ordinary passenger trucks (he showed a brochure showing what kinds of trucks and trailers will be sold at the site.)
- 2) The Site Inspection Committee did visit the site, and had some concerns about screening and buffering the site, and also about traffic on Bardstown Road.
- 3) Bob Hook, the applicant, said about 80% to 85% trucks they sell are in stock and are ½-ton to 1-ton pickups; also work vans. They are classified as a "medium-duty truck dealer."
- 4) Hours of operations are tentatively 9:00 a.m. through about 7:00 p.m. or 8:00 p.m. and would not be open on Sundays

#### **Site Inspection Comments:**

1. Request should be C-M due to larger trucks on site to be sold.
2. Heavy buffering along residential area should be provided. Irrigation for landscaping.
3. Compatibility with neighborhood is an issue.
4. Hours of operation.
5. Could be a disruption of established residential neighborhood.
6. Heavy buffering along north property line.
7. More green areas in parking area. Too much asphalt.
8. Tree Protection Plan needed.

#### **Staff Findings**

1. Staff finds that the land use is appropriate for the site, and that the rezoning and form district change is consistent with the Comprehensive Plan (guidelines noted below).

2. Staff finds that the proposed screening and buffering of the site from the single-family residential to the east meets applicable codes.
3. Staff finds that a rendering is needed to evaluate the appearance of the structure.
4. Staff finds that a portion of the site (Staff recommends Lot 1) requires an M-2 zoning classification due to the fact that some of the trucks will have a weight capacity greater than two-tons. The applicant has altered the request to request this M-2 classification.

*Relationship to Comprehensive Plan - Cornerstone 2020 Plan Elements:*

**Community Form:** This site is in the Neighborhood form district, which permits non-residential uses that are located at the intersection of two major streets, and which are small scale, neighborhood serving uses. The applicant is seeking to expand the existing Suburban Marketplace Corridor form district because staff recommended it. This use (sale of heavy trucks, with 480+ display spaces) is not a use typically found in the Neighborhood form district, and is more typical of the type of use (in terms of mass and scale) found in the Suburban Marketplace form district.

Under the Comprehensive Plan, the Suburban Marketplace form district is characterized by the following traits:

**Suburban Marketplace Corridors** – Suburban Marketplace Corridors are generally located along major roadways with well defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity.

In instances where the Suburban Marketplace form district is proposed to be extended, the following guidelines should be used to review that request:

When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of land within existing corridors; (b) potential for disruption of

established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code.

In regard to these three criteria for review of the extension of a Suburban Marketplace form district, this proposed land use proposed is consistent with the Suburban Marketplace Form District, and does not appear to have the potential to disrupt the established residential neighborhood. In addition, this project's design meets the standards of the Land Development Code.

At the Land Development and Transportation Committee meetings on this project, screening and buffering was discussed between this site and the single-family residential to the north and east. A 30-foot LBA, with a six-foot solid wood fence, is proposed adjacent to the single-family residential homes to the rear. On the side, adjacent to the single-family residential property that fronts on Bardstown Road, a 25-foot LBA, with a vinyl security fence, is proposed.

Based on review of this proposal, the fact that the site is located with frontage on a major arterial street, the proposed screening and buffering proposed, and based on existing land use in the area, staff finds that this project is compatible with the Suburban Marketplace Corridor form district. (1.B.8, 2.4, 2.5, 2.7, 3.1, 3.2, 3.21, 3.22, 3.24, 9.1)

**Mobility/Transportation:** Currently the site has two proposed entrances on Bardstown Road, as well as perimeter sidewalks. No traffic study or Air Quality Analysis has been requested for this project. The applicant is proposing crossover easements with the property to the north and south, at the request of the Transportation section; therefore, this project meets the requirements of the relevant transportation guidelines. (3.6, 7.1, 7.2, 7.3, 7.4, 7.6, 7.9, 9.1, 9.2)

**Environmental:** There are no topographic concerns, nor have any site constraints been identified. Therefore, this project meets the applicable environmental regulations and Comprehensive Plan guidelines. (10.1, 10.2, 10.5, 10.12)

### ***Relationship to Neighborhood, Small Area, Corridor or Other Plan(s)***

No small area studies exist for this area.

### **Standard of Review**

Criteria for granting the proposed rezoning:

1. The proposed rezoning complies with the applicable guidelines and policies of Cornerstone 2020; **or**
2. The existing zoning classification is inappropriate and the proposed classification is appropriate; **or**

3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

***Form district change standards***

Under the Cornerstone 2020 Comprehensive Plan, the following criteria should be used to evaluate a form district change:

Evaluate the appropriateness of a form district amendment in the context of:

- The description and function of the subject property's existing form district;
- The description and function of the form district to which it is proposed the subject property should be attached;
- The compatibility of any proposed development associated with the form district amendment with the character of the proposed form district; and,
- The compatibility of the proposal with the existing building and uses on any contiguous land.

### **Standard Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code . Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The square footage shall be limited to 5,040 square feet.
3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use, or site disturbance permit is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 16, 2006 Planning Commission meeting.
10. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
12. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
13. Hours of operations shall be 9:00 a.m. through about 7:00 p.m. or 8:00 p.m. Monday through Saturday. The business shall be closed on Sundays

All binding elements and/or conditions of approval stated in this report are accepted in total without exception by the entity requesting approval of this (these) development item(s).

## **BINDING ELEMENTS**

### **DOCKET NO. 9-05-06**

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3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use, or site disturbance permit is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 16, 2006 Planning Commission meeting.
10. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
12. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
13. Hours of operations shall be 9:00 a.m. through about 7:00 p.m. or 8:00 p.m. Monday through Saturday. The business shall be closed on Sundays
14. The lighting at the rear of the property will be turned off at the close of business each evening or at 10:00 PM, whichever is earlier.
15. The M-2 portion of the site shall be restricted to sales of large trucks (over two-ton hauling capacity). No other M-2 uses shall be permitted unless a public hearing is held by the Planning Commission on the land use change.



The above binding elements of the district development plan are agreed to by the property owner June 13, 2006.

J. Jude Clark Jr., Attorney  
OWNER OR OWNER'S AUTHORIZED REPRESENTATIVE

